

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Western District of New York

Michael Jones 18 A 1781

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

See Attachments (Page 2 & A-c)

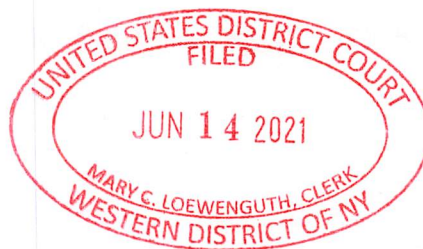
Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No.

20-CV-1682-LJV

(to be filled in by the Clerk's Office)

JURY TRIAL: Yes ☐ No ☒

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Michael Jones JR

All other names by which
you have been known:

ID Number

18 A 1781

Current Institution

wende correctional facility

Address

wende AD, P O Box 1187

Alden

Ny

14004

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Mr. Eckert

Job or Title (*if known*)

Superintendent of wende corr.

Shield Number

N/A

Employer

D.O.C.C.S (State of New York)

Address

wende AD, P O Box 1187

Alden

Ny

14004

City

State

Zip Code

☒ Individual capacity☒ Official capacity**Defendant No. 2**

Name

Mr. Lowerre

Job or Title (*if known*)

Dept of Administration

Shield Number

N/A

Employer

D.O.C.C.S (State of New York)

Address

wende AD, P O Box 1187

Alden

Ny

14004

City

State

Zip Code

☒ Individual capacity☒ Official capacity

Attachment - A

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Michael Jones

All other names by which
you have been known:

ID Number

18 A 1781

Current Institution

wende corrections

Address

wende AD, P.O. Box 1187

Alden

City

Ny

State

14004

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

MR. Bizub

Job or Title (*if known*)~~sergeant~~ Sergeant

Shield Number

N/A

Employer

D.O.C.C.S state of New York

Address

wende AD, P.O. Box 1187

Alden

City

Ny

State

14004

Zip Code

☒ Individual capacity☒ Official capacity

Defendant No. 2

Name

MR. Hyland

Job or Title (*if known*)

Correction officer

Shield Number

32609

(?)

Employer

D.O.C.C.S state of New York

Address

wende AD, P.O. Box 1187

Alden

City

Ny

State

14004

Zip Code

☒ Individual capacity☒ Official capacity

Attachment - B

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

Defendant No. 3

Name

MR. Killinger

Job or Title (if known)

~~Officer~~, correction officer

Shield Number

43797

Employer

DOCCS State of New York

Address

Wende AD, P.O. Box 1187

Alden

NY

14004

City

State

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

MR. Butcher

Job or Title (if known)

Correction officer

Shield Number

N/A

Employer

DOCCS State of New York

Address

Wende AD, P.O. Box 1187

Alden

NY

14004

City

State

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

These state officials have violated my First Amendment, Fourth Amendment, Sixth Amendment, Eighth Amendment, Fourteenth Amendment rights also violated due processing rights with intentional infliction of emotional and mental distress with cruel and unusual punishment and denial of mental and medical attention.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Attachment - C

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Mr. Brown

(If applicable) Official Position of Defendant: Dept of Security

(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity

Address of Defendant: Wende Correctional Facility
Wende AD. P.O. Box 1187 Alden NY 14004

Name of Defendant: Mr. Pfanner

(If applicable) Official Position of Defendant: Sergeant

(If applicable) Defendant is Sued in ☒ Individual and/or ☒ Official Capacity

Address of Defendant: Wende Correctional Facility
Wende AD. P.O. Box 1187 Alden NY 14004

Name of Defendant: _____

(If applicable) Official Position of Defendant: _____

(If applicable) Defendant is Sued in ☐ Individual and/or ☐ Official Capacity

Address of Defendant: _____

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes ☐ No ☐

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

See Attachments

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

C. What date and approximate time did the events giving rise to your claim(s) occur?

from 2/12/20 to 12/15/20 and currently

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Attachments

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I have chronic back pain, loss of sleep, emotional distress, mental anguish and P.T.S.D ... I requested physical therapy but was denied Also I'm being denied hearing device to assist me with hearing

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am request ^{\$2,250,000} \$2,250,000, (\$ 250,000 for each claim)
I request Physical therapy, hearing device and
to be placed in the A.P.P.U program. I Also
want all Correction officers to wear body Cams.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

WENDE Correctional

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☒ Do not know

If yes, which claim(s)?

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

WENDE Correctional

2. What did you claim in your grievance?

See Attachments

3. What was the result, if any?

These officers cover for each other so All my grievances was denied

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)**F. If you did not file a grievance:**

1. If there are any reasons why you did not file a grievance, state them here:

In some situations I did not file a grievance because the officers have hurt me and destroyed property

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Sometimes inmates are silenced by officers and you can't complain because they will hurt you, destroy your property or place a weapon on you. we have no voice and no one to punish officers when they are wrong

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

(Rev. 01/21) Complaint for Violation of Civil Rights (Prisoner)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

6/10/21

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Michael Jones

Michael Jones

18 A 1781

P.O. Box 1187

Alden

City

Ny

State

1400

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

Print

Save As...

Add Attachment

Reset

ments

claim against MA. Eckert, the Superintendent of Wende Correctional Facility.

Superintendent Eckert was well aware that his staff inflicting emotional and mental distress on me because I wrote him grievance's about everything that I was going through. I wrote directly to Superintendent Eckert and notified him that his staff was harassing me for my political beliefs, I notified Superintendent Eckert that his Dept of Administration violated my due processing while dealing with my property claim, I notified Superintendent Eckert that his staff was verbally abusing me and forcing me to sleep in a cell without a mattress, I wrote Superintendent Eckert and notified him that I was not giving proper medical Attention and his Sergeant force me to sleep in a cell full of another inmates fecal matter while I had Covid-19. I told Superintendent Eckert about everything his staff did to me and as their supervisor he allowed his Staff to violate my rights

For this claim against Superintendent Eckert I would like \$250,000 for Relief because he is the supervisor of the staff at Wende Correctional Facility and they have caused me to have chronic back pain, lost of sleep, emotional distress and mental anguish, P.T.S.D. I am also requesting physical therapy and to be placed in the A.B.P.U program for my safety.

Second claim against MR. Eckert

As the Superintendant of Wende Correctional Facility it is MR. Eckert's responsibility to ensure the health of his prisoners and staff. MR. Eckert did not follow protocol for a contagious outbreak. For most of the pandemic MR. Eckert did not lock down the facility, MR. Eckert did not test his staff or enforce mask wearing. MR. Eckert did not handle the Covid pandemic correctly and he allowed his staff to infect an inmate and that caused me to get sick with Covid-19.

For this claim against MR. Eckert I request \$250,000 for relief of Covid-19, emotional distress, pain and suffering, mental anguish and all the side effects of Covid-19.

claim against Dept of Administration Mr. Lowerre

Dept Lowerre was responsible for handling my property claim, in the month of February 2020 while being transferred from Great meadows to Wendell my property was stolen on the draft. I filed a property claim and submitted all my documents that proves I own property. The process of a property claim is to be completed in 3 months, Dept Lowerre refused to complete my claim and when I wrote to him he got upset. Dept Lowerre completed my claim 7 months after the three months and denied my claim even though I have all the documentation to prove I own property. He denied my claim intentionally to cause emotional distress.

For my claim against Mr. Lowerre
I am requesting \$ 250,000

claim against Sergeant Bizub

From September 2020 to December 2020 I was housed in the SHU in Wende Correctional Facility. Sergeant Bizub is the Supervisor for the SHU. Many times I notified him about his staff harassing me, many times I notified him that I was being denied mental health and medical attention, many times I notified him that his staff was making me sleep on a metal frame with no mattress in my cell. Not only did he, Sergeant Bizub, allow his staff to torment ~~me~~ me and abuse their job status, he allow them to abuse the power of the State.

For my claim against Sergeant Bizub

I am requesting \$250,000 for relief for allowing his staff to inflict emotional distress and mental anguish, cruel and unusual punishment and intentionally causing chronic back pain.

Claim against officer Hyland

officer Hyland has harassed me many times, it started in october of 2020 while in SHU. Officer Hyland was aware that I was sleeping in a cell on the metal frame without a mattress, because I showed him and he saw it with his own eyes. I asked officer Hyland directly to help me get a mattress and he responded "monkeys don't sleep on mattress". Also on the day Joe Biden won the election I was dancing and singing in my cell, officer Hyland came to my cell and verbally abused me for my political beliefs, then he took me out my cell and placed me in a cage and went back to my cell and destroyed all my property. He placed pictures of my kids and deceased brother in the toilet and pissed on them. After that he harassed me for a week non stop.

For my claim against officer Hyland I am requesting \$ 250,000 for relief of emotional distress and mental anguish, cruel and unusual punishment

Claim against officer Killinger

officer Killinger has harassed me many times, it started in october of 2020 while in the SHU. officer Killinger was aware that I was sleeping in a cell on the metal frame without a mattress because I showed him and asked him to help me get a mattress. Officer Killinger performed many cell searches on my cell so he was aware I had no mattress, while searching my cell he would always destroy my property. Also on the day Joe Biden won the election officer Killinger assisted officer Hyland in destroying my property and placing my pictures in the toilet. The harassment was never stop.

For my claim against officer Killinger I am requesting \$250,000 for relief of emotional distress and mental anguish and cruel and unusual punishment

Claim against Butcher

Officer Butcher has harassed me many times and he is the ring leader of all the officers that work in the SHU. Since all these officers follow him as their leader he is responsible for everything that happened to me while in SHU. In the month of October 2020 Officer Butcher touched me sexually while I was in the shower. I called O.S.I and reported him and that's when all the officers in the SHU started to harass me. Officer Butcher forced me to sign papers stating my claim was false. He promised that if I signed these papers he will tell his staff to stop destroying my property. This harassment never stopped.

for my claim against officer Butcher
I am requesting \$250,000 for relief of emotional distress and mental anguish and cruel and unusual punishment and sexually harassing me and touching.

claim against Mr. Brown

As the dept of security for wendell correctional facility Mr. Brown has the responsibility to make sure I am safe. In the month of February 2020, I was sexually assaulted by a inmate on D-block in my cell. I reported this inmate and was moved to protective custody. However, Mr. Brown would not allow me to press charges and he also hide this inmates true identity. Mr. Brown also allowed this same inmate to be placed in protective custody with me at a later date and this same inmate assaulted my a second time. I also wrote Mr. Brown to tell him about his staff and he encouraged his staff to continue to harass me and destroy my property.

for my claim against Mr. Brown I am requesting \$250,000 for relief of emotional distress, mental anguish, cruel and unusual punishment and failure to protect.

For my claim against MR. Pfonner

Approx in the month of April / May 2020 I had the corona virus. once the staff became aware I had Covid-19 I was moved and housed in the facility hospital... Sergeant Pfonner was the supervisor of that area.

Sergeant Pfonner placed me in a cell that had fecal matter thrown all over the walls of the cell. Fecal matter was everywhere. when I told sergeant Pfonner about this fecal matter he forced me to stay in that cell and tried to force me to clean the cell while I had Covid-19. when I refused he order his staff to stop feeding me. At this time I had covid and I felt like I was going to die, so I tried to kill myself because of how they treated me... They forced me to stay in a cell with another inmates fecal matter and stop feeding me and would not allow the medical staff to see me while I was sick

MR. Pfanner claim

For this claim against sergeant Pfanner
I am requesting \$250,000 relief
for denying me medical attention,
cruel and unusual punishment,
emotional distress, mental anguish
and pain and suffering.

Wende Correctional Facility
wende RD, P.O. Box 1187
Alden Ny 14004
Michael Jones 18A1781



LEGAL MAIL

Unit
G

160
1-3-9
E

WENDE



CORRECTIONAL FACILITY

NEOPOST

06/11/2021

US POSTAGE \$001.60⁰ZIP 14004
041M11281621

20-CV-1682

ed States western District
New York, Court House

2 Niagara Square

Buffalo, New York, 14202

